

<b><i>Examiner-Initiated Interview Summary</i></b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Application No. 10/510,229</td> <td style="padding: 2px;">Applicant(s) REITER ET AL.</td> </tr> <tr> <td style="padding: 2px;">Examiner Zachariah Lucas</td> <td style="padding: 2px;">Art Unit 1648</td> </tr> </table>	Application No. 10/510,229	Applicant(s) REITER ET AL.	Examiner Zachariah Lucas	Art Unit 1648
Application No. 10/510,229	Applicant(s) REITER ET AL.				
Examiner Zachariah Lucas	Art Unit 1648				

**All Participants:**

(1) Zachariah Lucas.

(2) Martin D. Moynihan.

**Date of Interview:** 16 July 2009

**Type of Interview:**

☒ Telephonic  
☐ Video Conference  
☐ Personal (Copy given to: ☐ Applicant    ☐ Applicant's representative)

**Exhibit Shown or Demonstrated:**    ☐ Yes    ☒ No  
If Yes, provide a brief description: \_\_\_\_\_

**Part I.**

**Rejection(s) discussed:**  
New

**Claims discussed:**  
199 and 215

**Prior art documents discussed:**  
NA

**Part II.**

**SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:**  
See Continuation Sheet

**Part III.**

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

/Zachariah Lucas/  
 Primary Examiner, Art Unit 1648

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: The Examiner indicated that the claims appeared to be allowable over the prior art. However, the Examiner noted that the present claims are drawn to a method of use of the antibodies of copending application 11/074803, which use is disclosed in that application, and that the present application is a CIP of the parent of the 803 application. The Examiner also noted that in the decision of Teva Pharmaceuticals (86 U.S.P.Q.2d 1001, at 1008-1009, CAFC 2008), which indicates that the protection against double patenting under 35 USC 120 does not apply to CIP applications, and that methods of using a composition that are disclosed in the patent claiming the composition are not patentably distinct from the claims to the composition. In view of the above, the Examiner indicated that a terminal disclaimer over the '803 application would be required before the present application would be found allowable.

The Applicant indicated that a TD would be filed.